

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
EASTERN DIVISION  
No. 4:01-CR-12-H  
No. 4:12-CV-149-H

CARLTON LEE FARMER, )  
                        )  
Petitioner,         )  
                        )  
                        )  
v.                    )  
                        )  
                        )  
UNITED STATES OF AMERICA     )  
                        )  
Respondent.         )

**ORDER**

This matter is before the court on petitioner's motion to vacate or set aside sentence pursuant to 28 U.S.C. § 2255, filed July 24, 2012 [DE #56]. Petitioner previously filed a § 2255 motion, which the court dismissed on April 5, 2004, for failure to state a claim upon which relief could be granted. Because the motion presently before the court is a successive § 2255 motion, this court is without jurisdiction to consider it. See 28 U.S.C. § 2255(h) ("A second or successive motion must be certified . . . by a panel of the appropriate court of appeals . . ."). Accordingly, petitioner's motion to vacate is DISMISSED WITHOUT PREJUDICE to petitioner's right to apply to the Fourth Circuit for leave to file a successive § 2255 motion.

Because petitioner's motion is dismissed without prejudice to his right to apply to the Fourth Circuit for leave, this order does not raise a substantial issue for appeal concerning

the denial of a constitutional right. Accordingly, a certificate of appealability is not issued as to this order.

This 6th day of August 2012.



---

MALCOLM J. HOWARD  
Senior United States District Judge

At Greenville, NC  
#31